

[AMENDED AND RESTATED CHAPTER 11 OF THE CODE OF FAIRFAX COUNTY,  
VIRGINIA ADOPTED DECEMBER 9, 2002]

**CHAPTER 11. Human Rights Ordinance.**

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## **ARTICLE 1. In General.**

### **Section 11-1-1. Statement of policy.**

The continued harmonious relations among all people are hereby declared essential to the welfare, health, and safety of the residents of Fairfax County. It is contrary to the public policy of the County to permit those conditions to arise or continue unabated which impede the peaceful coexistence of all people in the County, threaten peace and good order and adversely affect the physical, economic and social well-being of the residents. It is the duty of this government to exercise all available means and every power at its command to prevent the same so as to protect its residents from such perils. To this end, it is essential that the government of this County assume the initiative for repairing the consequences of past denials of equal opportunities, preventing denials of these opportunities in the future, and eliminating the underlying causes of discrimination. It is the dual purpose of this Chapter to institute an affirmative human rights program of positive efforts to eliminate discrimination and to provide the citizen recourse for discriminatory acts. Therefore, in order to secure and promote the health, safety and general welfare of the residents of this County, it is declared to be the policy of the County to ensure that all persons be afforded equal opportunity to participate, on the basis of personal merit, in the social, cultural, economic, and other phases of community life free from any discrimination, and to that end the governing body adopts this Chapter of the Code of the County of Fairfax, Virginia; and it is further declared to be the policy of the County that any

provision in a deed, mortgage, deed of trust or other instrument affecting title to or any interest in land or housing recorded in the land records of this County which purports to restrict or affect, on the basis of age, race, color, religion, sex, national origin, marital status, disability, or familial status or the holding, occupancy or transfer of any interest in land, shall, on and after the effective date of this Chapter be wholly invalid for any purpose.

## **Section 11-1-2. Definitions.**

For the purposes of this Chapter:

*Age* means any individual who is at least forty (40) years of age.

*Commission* means the Human Rights Commission, as established herein.

*Complainant* means any person who files a complaint with the Commission, alleging that a violation of this Chapter has been committed.

*Complaint* means any written allegation sufficient to indicate that a named respondent has committed a violation of this Chapter.

*County* means the County of Fairfax, Virginia.

*Disability* means any condition or characteristic that renders a person a disabled person.

*A disabled person* means any person who:

- (1) Has a physical or mental impairment which substantially limits one (1) or more major life activities;
- (2) Has a history of, has been misclassified or has been perceived as having an impairment which substantially limits one (1) or more major life activities;
- (3) Has a physical or mental impairment that does not substantially limit major life activities but is treated by others as constituting such a limitation;
- (4) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment.

*Discriminate or discrimination or discriminatory* means or describes any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial or any other act or failure to act or any other differentiation or preference of or for any person or any other difference in treatment which adversely affects such person.

*Discrimination based on sex* includes, but is not limited to, discrimination because of or on the basis of pregnancy, childbirth or related medical conditions; and women affected by pregnancy, childbirth or related medical conditions shall be treated under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in this Chapter shall be interpreted to permit otherwise. This Chapter shall not require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion; provided, that nothing herein shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.

*Educational institution* means any nursery, kindergarten, elementary or secondary school, academy, college, university, extension course or nursing, secretarial, business, vocational, technical, trade or professional school, or joint apprenticeship program.

*Employer* means any person who, within the County, in exchange for wages, salaries, commission or other benefits, employs four (4) or more persons who are not family members to the employer (if an individual) or to any partner or majority shareholder of the employer (if a partnership or a corporation) and who are not employed in domestic service in the employer's personal residence. For purpose of this Section, family member shall mean: spouse, brother, nephew, parent, half sister, first cousin, child, half brother, mother-in-law, stepparent, stepsister, father-in-law, stepchild, stepbrother, daughter-in-law, grandparent, aunt, son-in-law, grandchild, uncle, sister-in-law, sister, niece, brother-in-law.

*Employment agency* means all persons, including newspapers publishing help-wanted advertisements who with or without compensation undertake to solicit or advertise in the County for potential employees or refer persons for potential employment in the County.

*Executive director* means the person appointed to the position of Executive Director of the Human Rights Commission or the Executive Director's designated representative.

*Housing* means any building, structure, mobile home site or facility, or portion thereof, located in the County that is used or occupied or is intended, arranged or designed to be used or occupied as the home, residence or sleeping place of one (1) or more persons, groups or families, and any vacant land located in Fairfax County offered for sale or lease for the purpose of constructing or locating thereon such building, structure or facility, and includes any interest in land or housing as so defined, fee simple, leasehold or other.

*Labor organization* means any association organized for mutual benefit and operating as a labor union, association, committee or organization for the purpose of collective bargaining and other lawful functions of labor unions, or any employee representation committee, any of whose numbers are employed in the County whether or not having a duly authorized charter as a local labor union from either a state or national labor organization, and whether or not registered with the State Department of Labor.

*Lending institution* means any bank, insurance company, savings and loan association, finance company, credit union, mortgage company, or any other person regularly engaged in the business of lending money or guaranteeing loans or furnishing consumer credit or other credit-related services.

*Major life activities* means functions such as, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

*Mental impairment* means any mental or psychological disorder, such as mental retardation, organic brain syndrome, neurological, emotional or mental illness, and specific learning disabilities. This shall not include alcoholism or drug addiction.

*Non-residential real estate* means any real property used for other than residential purposes.

*Notice of investigation* means any formal statement issued by the Commission, on a form to be prepared by the Commission, alleging that any person has committed a violation of this Chapter and thereby initiating an investigation of such alleged violation.

*Party* means any Complainant or Respondent.

*Person* means any individual or individuals, partnership, association, corporation, joint-stock company, labor union, mutual company, trustee in bankruptcy, receiver or other fiduciary, or the agent, legal representative or employee thereof.

*Physical impairment* means any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one (1) or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine.

*Public accommodation* means and include every business, professional or commercial enterprise, hospital or nursing home, refreshment, entertainment, sports, recreation or transportation facility located in the County, whether licensed or not, public or private, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold or otherwise made available in any manner to the public. "Public accommodation" does not include a bona fide private club or other establishment not in fact open to the public.

*Qualified disabled person* means:

- (1) With respect to employment, a disabled person who, with or without reasonable accommodation can perform the essential functions of the job in question.
- (2) With respect to other goods or services, means any disabled person who meets the essential nondiscriminatory eligibility requirements for the receipt of such goods or services.

*Real estate broker* means a person doing business in the County of Fairfax who is the holder of a real estate broker's license issued pursuant to applicable laws of the Commonwealth of Virginia.

*Real estate sales person* means a person doing business in the County of Fairfax who is the holder of a real estate license issued pursuant to applicable laws of the Commonwealth of Virginia.

*Real estate transaction* means any sale, exchange, rental, lease, assignment, sublease or other transfer of housing, vacant land or commercial property.

*Reasonable accommodation* shall mean the efforts necessary to make suitable an environment for a disabled person without undue hardship or undue expense to a business or employer.

*Religious organization* means any organization, association or society organized or operated for exclusively religious purposes or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, unless membership in such organization, association or society is restricted on account of age, race, color, national origin, sex, disability or marital status for a non-religious reason.

*Respondent* means any person alleged in any complaint filed with the Commission, or any Notice of Investigation issued by the Commission, to have violated this Chapter.

*Restrictive covenant* means any specification purporting to restrict or affect the holding, occupancy, ownership, rental, lease, or transfer of any interest in land or housing on the basis of race, color, religion, sex, marital status, national origin or disability.

### **Section 11-1-3. Unlawful practices--Non-residential real estate transactions.**

- (a) It shall be unlawful for any person, including but not limited to any real estate broker, real estate sales person, or rental agent acting on his or her own behalf or on behalf of any person, on the basis of age, race, color, religion, sex, national origin, disability, or marital status in matters relating only to non-residential real estate transactions:
  - (1) To refuse to sell, lease, sublease, rent, assign, transfer, refuse to negotiate for the sale of, or otherwise make unavailable or deny any vacant land or commercial property;
  - (2) To represent that vacant land or commercial property is not available for inspection, sale, lease, sublease, rental, assignment or other transfer when in fact it is so available;
  - (3) To knowingly represent that vacant land or commercial property is available for inspection, sale, lease, sublease, rental, assignment or other transfer at rates or on terms or conditions different from those at which it is in fact available to the generality of persons or



to otherwise discriminate against any person in the terms, conditions or privileges of sale or rental;

- (4) To fail to provide services, facilities or other amenities connected with one's ownership, lease, sublease, rental, possession or occupancy of vacant land or commercial property;
- (5) To interfere with, interrupt or terminate one's ownership, lease, sublease, rental, possession or occupancy of vacant land or commercial property or other enjoyment of any interest therein;
- (6) To discriminate in the investigation of complaints;
- (7) To deny access to, membership or participation in, or other benefit of any multiple-listing service or other service, organization or facility related to any non-residential real estate transaction;
- (8) To include in the terms or conditions of any sale, lease, sublease, rental, assignment, or other transfer of vacant land or commercial property any condition or provision that purports to forbid or discourage or attempts to discourage the ownership, leasing, possession, occupancy or use of such vacant land or commercial property;
- (9) To make, print or publish or cause to be made, printed or published any notice, statement or advertisement, in connection with, any non-residential real estate transaction that indicates discrimination or an intention to engage in discrimination;
- (10) To make or use a written or oral inquiry or form of application or photograph in connection with any non-residential real estate transaction that elicits or attempts to elicit information concerning age, race, color, religion, sex, national origin, marital status, or disability. With respect to marital status, this does not preclude questions regarding income on a joint application;
- (11) To solicit the sale, lease, sublease, rental, assignment or other transfer of vacant land or commercial property or discourage the purchase of, lease, sublease, rental, assignment or other transfer of vacant land or commercial property by representations regarding the existing or potential proximity of real property owned, used or occupied by a

person or persons of a particular age, race, color, religion, sex, national origin, marital status, or disability; or

- (12) To display a sign or otherwise represent that vacant land or commercial property is available for inspection, sale, lease, sublease, rental, assignment or other transfer when in fact it is not so available.
- (b) It shall be unlawful for any person who prepares or supervises the preparation of any deed, mortgage, deed of trust or other instrument affecting title to or any interest in vacant land or commercial property in the County on the basis of age, race, color, religion, sex, national origin, disability, or marital status, to knowingly:
- (1) Include therein any restrictive covenant;
  - (2) Fail to include in any report or abstract of title pertaining to vacant land or commercial property located in Fairfax County, prepared or furnished by him/her, a notation that any restrictive covenant contained therein is invalid and unenforceable; or
  - (3) Fail to include in any deed, mortgage, deed of trust or other instrument affecting title to or any interest in vacant land or commercial property in the County, where any restrictive covenant is incorporated by reference to another document or instrument, a statement that such restrictive covenant is invalid and unenforceable.
- (c) The Clerk of the Circuit Court shall:
- (1) Not comply with any request to copy any deed, mortgage, deed of trust or other instrument affecting title to or any interest in vacant land or commercial property or declaration of covenants, filed or recorded in his/her office, unless he/she imprints on or affixes to such a copy of a clear and conspicuous statement that any provision contained therein which purports to restrict or affect the holding, occupancy, ownership, rental, lease or transfer of any interest in land or housing, vacant land or commercial property on the basis of age, race, color, religion, sex, national origin, marital status, or disability is invalid and unenforceable; and
  - (2) Post in a conspicuous location in the main clerk's office and in the record room a notice that contains the following language printed in black on a light-

colored background, in not less than fourteen-point type:

"It is a violation of the Human Rights Ordinance of the County of Fairfax, Virginia, for any person to include any provision in any deed, mortgage, deed of trust, or other instrument affecting title to or any interest in vacant land or commercial property which purports to restrict or affect, on the basis of age, race, color, religion, sex, national origin, marital status or disability holding, occupancy, or transfer of any interest in land or vacant land or commercial property and any such provisions are invalid and unenforceable. Fairfax County Code, Section 11-1-3"

This language shall also be imprinted or affixed to every liber volume in the custody of the Clerk of the Court. The Clerk of the Court shall also exhibit in a conspicuous location in the main clerk's office and in the record room a copy of this Chapter.

(d) *Exemptions:*

(1) It is not a violation of this Section to:

- (A) Require that a person have legal capacity to enter into an irrevocable contract;
- (B) Fail to exercise a higher degree of care for a person with a disability than for a person without a disability by any person selling, renting or leasing property.

(2) It is not a violation of this Section for a religious organization to:

- (A) Limit or give preference in non-residential real estate transactions to persons of the same religion or denomination or to make a selection of buyers, tenants, lessees, assignees, or sublessees where such preference is reasonably calculated to promote the religious principles for which said real estate is established or maintained;
- (B) Limit admission to or give preference in its facilities or services to persons of the same religion or denomination or to make a selection of applicants or individuals where such preference is reasonably calculated to promote the religious

principles for which it is established or maintained.

**Section 11-1-4. Unlawful practices--Discrimination in housing based upon marital status.**

- (a) It shall be unlawful for any person, including but not limited to any real estate broker, real estate sales person, or rental agent acting on his or her own behalf or on behalf of any person, on the basis of marital status:
  - (1) To refuse to sell, lease, sublease, rent, assign, transfer, refuse to negotiate for the sale of, or otherwise make unavailable or deny any housing;
  - (2) To represent that housing is not available for inspection, sale, lease, sublease, rental, assignment or other transfer when in fact it is so available;
  - (3) To knowingly represent that housing is available for inspection, sale, lease, sublease, rental, assignment or other transfer at rates or on terms or conditions different from those at which it is in fact available to the generality of persons or to otherwise discriminate against any person in the terms, conditions or privileges of sale or rental of housing;
  - (4) To fail to provide services, facilities or other amenities connected with one's ownership, lease, sublease, rental, possession or occupancy of housing;
  - (5) To interfere with, interrupt or terminate one's ownership, lease, sublease, rental, possession or occupancy of housing or other enjoyment of any interest therein;
  - (6) To discriminate in the investigation of complaints alleging discrimination in housing based upon marital status;
  - (7) To deny access to, membership or participation in, or other benefit of any multiple-listing service or other service, organization or facility related to housing;
  - (8) To include in the terms or conditions of any sale, lease, sublease, rental, assignment, or other transfer of housing any condition or provision that purports to forbid or discourage or attempts to discourage the ownership, leasing, possession, occupancy or use of such housing;

- (9) To make, print or publish or cause to be made, printed or published any notice, statement or advertisement, in connection with, any housing transaction that indicates discrimination or an intention to engage in discrimination on the basis of marital status;
  - (10) To make or use a written or oral inquiry or form of application or photograph in connection with any real estate transaction that elicits or attempts to elicit information concerning marital status. However, this does not preclude questions regarding income on a joint application;
  - (11) To solicit the sale, lease, sublease, rental, assignment or other transfer of housing or discourage the purchase of, lease, sublease, rental, assignment or other transfer of housing by representations regarding the existing or potential proximity of real property owned, used or occupied by a person or persons of a particular marital status; or
  - (12) To display a sign or otherwise represent that housing is available for inspection, sale, lease, sublease, rental, assignment or other transfer when in fact it is not so available.
- (b) It shall be unlawful for any person who prepares or supervises the preparation of any deed, mortgage, deed of trust or other instrument affecting title to or any interest in housing, in the County on the basis marital status to knowingly:
- (1) Include therein any restrictive covenant;
  - (2) Fail to include in any report or abstract of title pertaining to housing, located in Fairfax County, prepared or furnished by him/her, a notation that any restrictive covenant contained therein is invalid and unenforceable; or
  - (3) Fail to include in any deed, mortgage, deed of trust or other instrument affecting title to or any interest in housing in the County, where any restrictive covenant is incorporated by reference to another document or instrument, a statement that such restrictive covenant is invalid and unenforceable.
- (c) The Clerk of the Circuit Court shall:

- (1) Not comply with any request to copy any deed, mortgage, deed of trust or other instrument affecting title to or any interest in housing or declaration of covenants, filed or recorded in his/her office, unless he/she imprints on or affixes to such a copy of a clear and conspicuous statement that any provision contained therein which purports to restrict or affect the holding, occupancy, ownership, rental, lease or transfer of any interest in land or housing on the basis of marital status is invalid and unenforceable; and
- (2) Post in a conspicuous location in the main clerk's office and in the record room a notice that contains the following language printed in black on a light-colored background, in not less than fourteen-point type:

"It is a violation of the Human Rights Ordinance of the County of Fairfax, Virginia, for any person to include any provision in any deed, mortgage, deed of trust, or other instrument affecting title to or any interest in housing which purports to restrict or affect, on the basis of marital status the holding, occupancy, or transfer of any interest in land or housing invalid and unenforceable. Fairfax County Code, Section 11-1-4"

This language shall also be imprinted or affixed to every liber volume in the custody of the Clerk of the Court. The Clerk of the Court shall also exhibit in a conspicuous location in the main clerk's office and in the record room a copy of this Chapter.

(d) *Exemptions:*

- (1) It is not a violation of this Section to:
  - (A) Maintain an establishment which provides sleeping accommodations exclusively to persons of the same sex;
  - (B) Restrict the rental or leasing of a room or rooms in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence;

- (C) Require that a person have legal capacity to enter into an irrevocable contract.
- (2) It is not a violation of this Section for a religious organization to:
  - (A) Limit or give preference in real estate transactions to persons of the same religion or denomination or to make a selection of buyers, tenants, lessees, assignees, or sublessees where such preference is reasonably calculated to promote the religious principles for which said real estate is established or maintained;
  - (B) Limit admission to or give preference in its accommodations, facilities or services to persons of the same religion or denomination or to make a selection of applicants or individuals where such preference is reasonably calculated to promote the religious principles for which it is established or maintained.

#### **Section 11-1-5. Unlawful practices--Employment.**

(With respect to provisions of this Section, actions on the basis of disability apply only to otherwise qualified disabled persons as defined in Section 11-1-2.)

- (a) It shall be unlawful for any employer on the basis of age, race, color, religion, sex, national origin, marital status or disability:
  - (1) To refuse to hire an individual for employment;
  - (2) To discharge an employee;
  - (3) To deny an employee any opportunity with respect to hiring, promotion, tenure, apprenticeship, compensation, terms, upgrading, training programs, or other conditions or privileges of employment; or
  - (4) To prevent an individual from taking a competitive examination or otherwise deny any benefits pertaining to the grading or processing of applications with respect to any aspect of employment;

- (b) It shall be unlawful for any employment agency on the basis of age, race, color, religion, sex, national origin, marital status or disability:
  - (1) To refuse or fail to accept, register, properly classify, or refer for employment any person; or
  - (2) To comply with any request by an employer for referral of applicants if the request indicates, directly or indirectly, that the employer desires any discriminatory limitation of applicants.
- (c) It shall be unlawful for a labor organization on the basis of age, race, color, religion, sex, national origin, marital status or disability:
  - (1) To deny full and equal rights to membership to an applicant for membership;
  - (2) To deny a member or an applicant an opportunity with respect to hiring, seniority, tenure, referral, apprenticeship, compensation, terms, upgrading, training programs, or other conditions or privileges of membership or employment; or
  - (3) To expel a member from membership.
- (d) It shall be unlawful for any person to circulate or publish any notice or advertisement related to employment or membership in a labor organization which indicates, directly or indirectly, any preference, limitation, specifications, or discrimination based upon age, race, color, religion, sex, national origin, marital status or disability.
- (e) It shall be unlawful for any member of a joint labor-industry apprenticeship committee or board to participate in any act of discrimination on the basis of age, race, color, religion, sex, national origin, marital status or disability notwithstanding the fact that the employer members of such committee or board are not in fact the employer of an apprentice against whom an act of discrimination has been committed.
- (f) *Exemptions:*
  - (1) It is not a violation of this Chapter to:
    - (A) Terminate employment or otherwise take action concerning a person under terms of a bona fide



retirement, pension or disability plan or group or employee insurance plan.

- (B) Restrict employment to persons of a particular religion, sex, national origin, age, physical or emotional standard, where such religion, sex, national origin, age, physical or emotional standard is a bona fide occupational qualification.
  - (C) Take actions on the basis of a disability, pursuant to law or regulation governing any employment or training program, which is designed to benefit persons of a particular disabled group.
  - (D) Advertise and offer employment only to disabled persons when other employment compatible with their ability would not be available to disabled persons because of their disability.
- (2) Nothing in this Section shall be construed to apply to educational institutions with respect to discrimination in the employment of teachers or administrators on the basis of emotional or mental illness or other mental or physiological disorder(s), such as mental retardation, organic brain syndrome and specific learning disabilities, unless the teacher or administrator can establish that such disability does not affect, and does not present a reasonable risk of affecting, his or her ability to perform any of the essential duties of his or her job.
- (3) To require that a person have legal capacity to enter into an irrevocable contract.

#### **Section 11-1-6. Unlawful practices--Public accommodations.**

- (a) It shall be unlawful for any person or public accommodation to discriminate against any person on the basis of age, race, color, religion, sex, national origin, marital status or disability with respect to the access, use of, benefit of, or enjoyment of goods, services, facilities, privileges or any other advantages of any public accommodation, or to make or publish any statement evidencing an intent to do so.
- (b) *Exemptions:*
  - (1) It is not a violation of this Section:

- (A) For a religious organization to limit admission to or give preference in its accommodations, facilities or services to persons of the same religion or denomination, or to make a selection of applicants or individuals where such selection is reasonably calculated to promote the religious principles for which it is established or maintained;
  - (B) For an organization to limit participation in contact sports on the basis of sex. For the purpose of this Section, contact sports shall include boxing, wrestling, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact;
  - (C) To require that a person have legal capacity to enter into an irrevocable contract.
- (2) Upon application and for good cause shown, the Commission may by written ruling permit any public accommodation facility to restrict access to such public accommodation facility to persons of a specified age or sex.

**Section 11-1-7. Unlawful practices--Credit.**

- (a) It shall be unlawful for any lending institution on the basis of age, race, color, religion, sex, national origin, marital status or disability to:
- (1) Discriminate against any person in the furnishing of credit or other credit-related services, including but not limited to the lending of money, guaranteeing of loans or accepting of mortgages;
  - (2) Deny or terminate credit or credit-related services or to affect adversely a person's credit rating or standing.
- (b) *Exemptions.* It is not a violation of this Section:
- (1) For a religious organization to limit or give credit or other credit related services to persons of the same religion or denomination or to give credit or services to individuals when such credit or services are reasonably calculated to promote the religious principles for which it is established and maintained.

- (2) To require that a person have legal capacity to enter into an irrevocable contract.

**Section 11-1-8. Unlawful practices--Education.**

- (a) It shall be an unlawful act for any educational institution or its agents, employees, or officers on the basis of age, race, religion, sex, national origin, color, marital status or disability:
  - (1) To discriminate against any person with respect to the terms, conditions, accommodations, advantages, facilities, benefits, privileges or services of that institution.
  - (2) To require, or cause to be required, that a photograph of any applicant for admission to an educational institution, or information regarding age, race, color, religion, sex, national origin, marital status or disability of such applicants, be submitted with any form of application for admission, unless such information is sought solely for the purpose of implementing a bona fide affirmative action program.
  - (3) To comply with any request by a potential employer that indicates, directly or indirectly, that the employer desires any unlawful discriminatory limitation in its efforts to recruit students on the educational institution's premises or in the employer's use of placement facilities for referral of students for employment or in such employer's participation in any job-training or work-study program operated by or in conjunction with the educational institution.
- (b) *Exemptions:*
  - (1) It is not a violation of this Section for any educational institution:
    - (A) To restrict admission to persons of the same sex.
    - (B) To limit admission or to give preference to persons of the same religion or denomination as the educational institution or to make a selection of applicants or individuals that is reasonably calculated to promote the religious principles for which it is established or maintained.

- (C) To limit participation in contact sports on the basis of sex. For the purpose of this Section, contact sports shall include boxing, wrestling, rugby, ice hockey, football, basketball, or other sports the purpose or major activity of which includes bodily contact.
- (D) To require that a person have legal capacity to enter into an irrevocable contract.

#### **Section 11-1-9. Unlawful practices--Retaliation.**

It shall be unlawful for any person:

- (1) To direct or indirectly cause or coerce, or attempt to cause or coerce, any person to do any act declared to be an unlawful act under this Chapter;
- (2) To directly or indirectly engage in economic reprisal, to do, threaten to do, or attempt to do harm to any person or property or to otherwise retaliate against any person because such person has opposed any practice based on a good faith belief that it is unlawful under this Chapter, or has complied with the terms of this Chapter, or has had a complaint filed in his or her behalf, or has filed a complaint or has testified, assisted or participated in any manner in any investigation, proceeding or hearing under this Chapter or exercised or attempted to exercise any right conferred herein.

#### **Section 11-1-10. Human Rights Commission.**

- (a) There is hereby created in the County of Fairfax a Human Rights Commission, hereinafter referred to as the Commission. The Commission shall consist of twelve (12) members who shall be residents of the County and broadly representative of the racial, sexual, religious, ethnic, disabled and age groups in the County. The members shall be appointed by the Board of Supervisors and shall be entitled to receive such compensation as the Board of Supervisors shall direct. Of the members first appointed, four (4) shall be appointed for terms of three (3) years, four (4) shall be appointed for terms of two (2) years, and three (3) shall be appointed for terms of one (1) year. Thereafter, members shall be appointed for terms of three (3) years each. Any vacancy shall be filled by the Board of Supervisors for the unexpired portion of a term.

- (b) There shall be an Executive Director of the Commission, who shall be appointed by the Board of Supervisors upon the joint recommendation of the Commission and the County Executive and who shall serve full time in that capacity. The Board of Supervisors shall authorize the Commission to employ such additional staff personnel as are deemed warranted to secure effective compliance with this Chapter.
- (c) Legal counsel shall be provided to the Commission through the office of the County Attorney. The Office of the County Attorney may authorize retention of outside counsel where deemed appropriate. Unless otherwise directed the Office of the County Attorney shall, during actions consistent with this Chapter, adhere to the rules and regulations as prescribed by the Board of Supervisors.

**Section 11-1-11. Functions and powers of the commission.**

- (a) *Functions:* The function of the Commission shall be to eliminate discrimination in housing, public accommodations, employment, education, and credit facilities by:
  - (1) Utilizing its full enforcement powers under this Chapter;
  - (2) Conciliating individual complaints of any acts or practices prohibited under this Chapter;
  - (3) Negotiating with wide sectors of business, unions, professions, official agencies and private organizations for the taking of action by them to improve opportunities available to persons protected by this Chapter;
  - (4) Rendering advice concerning the establishing of voluntary affirmative action programs; provided, however, that under no circumstances shall the Commission or its staff approve or ratify any such affirmative action program unless the affirmative action plan is implemented pursuant to a conciliation agreement entered into between the parties;
  - (5) Making studies and issuing reports on the condition of human rights in the County; and
  - (6) Advising the Board of Supervisors on matters relating to human rights issues as they pertain to the health,

safety and general welfare of persons protected by this Chapter.

- (b) *Powers:* The Commission, except for allegations of discrimination against the County, its boards, commissions, departments, agencies, officers, or employees, shall have the power:
- (1) To receive complaints from any person alleging violations of this Chapter and to investigate such alleged violations; and to investigate, on its own initiative, suspected violations of this Chapter.
  - (2) To request that any party produce for examination any books, records, papers or other documents or tangible evidence, or that any party answer written interrogatories or oral questions, relating to any matter under investigation by the Commission.
  - (3) To use methods of persuasion, conciliation and mediation or informal adjustment of grievances, to hold public hearings as provided for by this Chapter, and, in the case of complaints of alleged unlawful discriminatory acts, to make findings of fact, issue recommendations and publish its findings of fact and recommendations in order to foster compliance with this Chapter.
  - (4) To investigate by means of public hearings as provided for by this Chapter or otherwise any particular or general conditions having an adverse affect upon any rights protected by this Chapter including alleged violations of this Chapter.
  - (5) To request the attendance of witnesses at public hearings, fact finding conferences or other investigative forums conducted by the Commission and to take the testimony of such persons under oath or affirmation.
  - (6) To use such voluntary and uncompensated services of private persons, institutions, civic organizations, officials and advisory committees as may from time to time be offered and needed to perform advisory functions.
  - (7) To gather and disseminate information about discrimination and other human rights problems affecting the social, economic, cultural and other phases of community life within the County.

- (8) To establish a forum for discussing discrimination and other human rights problems within the County and to form committees with representatives from concerned groups within the County to study and propose solutions to discrimination and other human rights problems within the County.
- (9) To encourage the establishment of advisory committees within County agencies and, when requested by the Board of Supervisors, to establish such an advisory committee or committees.
- (10) To adopt, promulgate, amend and rescind, subject to the approval of the Board of Supervisors, rules and regulations to effectuate the purposes and provisions of this Chapter. The Commission shall forward all proposed rules and regulations to the Board of Supervisors for their approval and such rules and regulations shall be deemed approved unless the Board of Supervisors within sixty (60) days of receipt specifically disapproves such rules and regulations.
- (11) Whenever the Commission has a reasonable cause to believe that any person has engaged in or is engaging in any violation of Article 1 of this Chapter, and, after making a good faith effort to obtain the data, information and attendance of witnesses necessary to determine whether such violation has occurred, the Commission is unable to obtain such data, information or attendance, it may request the County Attorney, with the approval of the Board of Supervisors, to petition a judge of the general district court for a subpoena against any such person refusing to produce such data and information or refusing to appear as a witness, and the judge of such court may, upon good cause shown, cause the subpoena to be issued. However, the Commission shall have no power itself to issue subpoenas under this Article 1. Any witness subpoena issued under this Section shall include a statement that any statements made will be under oath and that the respondent or other witness is entitled to be represented by an attorney at law. Any person failing to comply with such subpoena issued under this Section shall be subject to punishment for contempt by the court issuing the subpoena. Any person so subpoenaed may apply to the judge who issued a subpoena to quash it. When conducting an investigation of a complaint filed under Article 2 of this Chapter the Commission or its designated subordinates shall have the power to

issue and serve a subpoena as provided for by Section 11-2-11(B).

- (12) Whenever the Commission has a reasonable cause to believe that any person has engaged in, is engaging in or is about to engage in a violation of this Article 1 of this Chapter, the Commission may seek through the County Attorney, with the approval of the Board of Supervisors, through appropriate enforcement authorities, prevention of or relief from a violation of this Article 1 of this Chapter prohibiting discrimination and to exercise such other powers and duties as provided for in this Chapter; however, the Commission in such event shall have no power itself to award damages or grant injunctive relief. If the Commission concludes at any time following the filing of a complaint and after consultation with the Office of the County Attorney, that prompt judicial action is necessary to carry out the purposes of Article 2 of this Chapter, the Commission may authorize a civil action by the County Attorney for appropriate temporary or preliminary relief, as provided for by Section 11-2-16.

- (13) To exercise all such other powers as are set forth in this Chapter.

#### **Section 11-1-12. Conduct of the Commission.**

The Commission shall elect a chairperson from its membership. A majority or one-half (1/2) of the currently serving members of the Commission, whichever is smaller, shall constitute a quorum. Decisions of the Commission shall be made by a majority vote of the members present. The Commission shall render to the Board of Supervisors on or before April 1 of each year a full written record of its activities under the provisions of this Chapter and its recommendations concerning measures to be taken to further the purposes of this Chapter.

#### **Section 11-1-13. Enforcement proceedings initiated by the filing of a complaint alleging a violation of Article 1 of this Chapter.**

- (a) *Complaints:* A complaint may be filed with the Commission by any person alleging that a violation of this Article 1 of this Chapter has been committed. All complaints must be formalized on a form supplied by the Commission within a reasonable time. The Executive Director shall promptly serve a copy of the formal complaint upon each respondent named



therein. The complaint shall state the name and address of the complainant and the person or persons against whom the complaint is made, and shall also state the alleged facts surrounding the alleged commission of a violation of this Article 1 of this Chapter, the date the violation was allegedly committed, and such other information as the Commission may require. A complaint filed under Article 1 of this Chapter may be withdrawn at any time by the complainant. Such withdrawal may terminate all action by the Commission with respect to that complaint. Failure of a complainant to formalize his or her complaint under this Article 1 of this Chapter within the time allowed may result in automatic dismissal of the complaint unless for good cause shown the Commission grants an extension of time for this purpose.

(b) *Investigations and Determinations by the Executive Director:*

- (1) Upon the filing of a complaint as set forth in Subsection (a) of this Section, the Executive Director shall conduct such investigation as he or she deems appropriate to ascertain the facts, provided that the complaint may be dismissed by the Executive Director without investigation if it fails to adequately allege a violation of this Article 1 or is otherwise deficient on its face. Except as set forth in Section 11-1-13(b)(4) below, upon completion of the investigation, the Executive Director shall render a determination in writing as to whether or not there are reasonable grounds to believe a violation of this Article 1 has occurred, and the facts supporting such determination. This determination shall promptly be served on the parties.
- (2) If the Executive Director determines that there are reasonable grounds to believe a violation of this Article 1 has occurred, he or she shall then determine:  
(i) whether conciliation should be attempted; or (ii) whether the matter should be referred directly to the Commission for a determination as to whether or not to hold a public hearing. If the Executive Director attempts conciliation, and conciliation is successful and agreed to by the vote of the Commission, the complaint will be considered resolved. If conciliation is not successful, the matter shall be forwarded to the Commission for a determination as to whether or not to hold a public hearing.
- (3) If the Executive Director determines that the complaint lacks reasonable grounds to believe a violation of this

Article 1 has occurred, he or she shall dismiss the complaint and advise the complainant in writing that such dismissal shall become final unless, within ten (10) business days of receipt of notice of the dismissal, the complainant files with the Commission a request for a review of the determination of the Executive Director. Upon request for such a review, the Commission shall afford the complainant an opportunity to appear before the Commission in person or by representative, or by letter, as the complainant may desire. After such review, the Commission may in its discretion dismiss such complaint. If the Commission determines that the complaint should not be dismissed, it shall direct the Executive Director to continue the investigation or proceed with conciliation efforts; or the Commission may determine to hold a public hearing on the allegations in the complaint.

(4) If the Executive Director determines, after investigation, that the available evidence does not permit a determination as to whether or not there are reasonable grounds to believe a violation of this Article 1 has occurred, he or she shall:

(A) Render a written notice to this effect to be served on the parties and include in such notice a statement of the reasons for such determination; and

(B) Refer the matter to the Commission for a determination as to whether or not to hold a public hearing and for other action consistent with the purposes of this Article 1.

(c) *Conciliation:* Conciliation conferences shall be informal, and nothing said or done during such conferences shall be made public by the Commission or its members or any of its staff unless the parties agree thereto in writing. Conciliation shall not be attempted if the Executive Director determines that it would be futile or if enforcement of this Article 1 would best be served by referring the matter directly to the Commission for a determination as to whether or not to hold a public hearing. If conciliation is attempted and the Executive Director determines that it is successful, the terms of the conciliation agreed to by the parties may be reduced to writing and incorporated into a conciliation agreement to be signed by the parties, which agreement is for conciliation purposes only and does not constitute an admission by any party that the law has been violated. Conciliation

agreements shall be signed on behalf of the Commission by the Chairperson or the Acting Chairperson. Nothing in this Section requires that the terms of the signed conciliation agreement be kept confidential. It shall be a violation of this Article 1 to violate or fail to adhere to any provision contained in any conciliation agreement, and the Commission shall have the right to pursue, through the County Attorney, with approval of Board of Supervisors, appropriate legal remedies to enforce any such agreement, including, but not limited to, the right to institute an action for breach of contract in a court of competent jurisdiction.

(d) *Determinations by the Commission as to whether to hold a public hearing:*

(1) The Commission shall determine by majority vote whether to hold a public hearing in all matters referred to it by the Executive Director in the following circumstances:

(A) When there is a determination by the Executive Director that there are reasonable grounds to believe that a violation of this Article 1 has occurred, and:

- i. A determination by him or her that conciliation should not be attempted; or
- ii. A determination by him or her that conciliation has been attempted and has been unsuccessful.

(B) When there is a determination by the Executive Director that there are no reasonable grounds to believe that a violation of this Article 1 has occurred, but:

- i. The complainant has filed a proper request for review of such determination; and
- ii. The Commission has concluded upon reviewing such determination, that the complaint should not be dismissed and that the complaint should not be referred to the Executive Director for further investigation;

(C) When there is a determination by the Executive Director that the available evidence does not permit a determination as to whether or not there

are reasonable grounds to believe that a violation of this Article 1 has occurred.

- (2) The Commission shall base its determination as to whether or not to hold a public hearing in any of the matters described in Subsection (1) on its judgment as to how enforcement of this Article 1 would be best served.
- (3) If the Commission determines not to hold a public hearing, it shall either dismiss the complaint or take such action as it deems appropriate and consistent with the purposes of this Article 1 and the powers of the Commission hereunder.

#### **Section 11-1-14. Hearing held by the Commission.**

With respect to any public hearing held by the Commission pursuant to this Article 1:

- (a) The chairperson or any Commissioner designated by the chairperson shall preside over the public hearing.
- (b) If the Commission determines to hold a public hearing, it may consider all of the allegations and issues set forth in the complaint or, in its discretion, may limit the scope of the hearing to one (1) or more of the allegations or issues set forth in the complaint. If a hearing is to be held, the Commission shall promptly notify the parties of the time, date and location of the hearing and serve upon them a statement of the charges against the respondent and the issues to be considered at the hearing. Such notice and statement shall be served no later than fourteen (14) days prior to the date of the hearing. The parties shall have the right to file written statements or arguments with the Commission prior to the hearing. The hearing shall be open to the public.
- (c) Hearing of the Commission may be held before the entire Commission or before designated hearing panels, consisting of three (3) or more members of the Commission, as the Commission in its discretion may determine.
- (d) The Commission may, upon proper motion, order the exclusion of witnesses while testimony is being given at any such hearing.
- (e) At any public hearing held by the Commission, each party shall be entitled:

- (1) To be represented by privately retained counsel of his or her choice;
- (2) To present his or her case or defense by oral or documentary evidence, to be given under oath or by affirmation;
- (3) To submit rebuttal evidence; and
- (4) To conduct such cross-examination as may be required for a full and true disclosure of the facts.

Any oral or documentary evidence may be received, but the Commission as a matter of policy shall provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. The Commission shall not be bound by the strict rules of evidence prevailing in the courts of law or equity.

- (f) The Executive Director shall be responsible for assuring the development of the evidentiary record before the Commission and may introduce evidence, examine or cross-examine witnesses, or make argument if he or she deems it advisable in order to fully apprise the Commission of the facts or the applicable law.
- (g) The Commission shall keep a full record of the hearing, which record shall be public and open to inspection by any person. Any party may request that the Commission furnish such party a copy of the hearing record and shall reimburse the Commission for the cost of producing a copy.
- (h) In matters where either party is represented by counsel, the Office of the County Attorney shall provide an attorney as counsel to the Commission.

#### **Section 11-1-15. Decisions by the Commission.**

- (a) If, after a public hearing, conducted pursuant to Article 1, the Commission determines that the respondent has committed or is committing the alleged violation(s) of this Article 1, the Commission shall state its findings and may issue recommendations, to be served promptly on the parties, providing notice to the respondent to cease and desist from such violation(s) and to take such action as may be indicated to effectuate the purpose of this Article 1, including but not limited to the payment by respondent of compensatory damages to any person or persons found by the Commission to be so entitled by reason or respondent(s)

violation(s) of this Article 1, or the placement or restoration of any person in or to such status in which the Commission finds he or she would be, but for respondent's violation(s) of this Article 1.

- (b) If, after a finding by the Commission of probable cause that a violation occurred the respondent fails to adequately take such action as provided in Section 11-1-15(a), the Commission may, through the County Attorney, with approval of Board of Supervisors, seek, through appropriate enforcement authorities, prevention of or relief from a violation of this Article 1.
- (c) If, after receiving the evidence presented at the hearing, the Commission finds that the respondent has not engaged in the alleged violation(s) of this Article 1, the Commission shall state its findings and shall dismiss the complaint. Prompt notice of such action shall be given to the parties.

**Section 11-1-16. Enforcement proceedings with respect to Article 1 of this Chapter initiated by the commission.**

- (a) The Commission may institute proceedings to enforce this Article 1 upon its own initiative by filing a Notice of Investigation and promptly serving it on each respondent named therein. Upon institution of proceedings by the Commission in this manner, the Commission shall have the option either to refer the matter to the Executive Director to conduct an investigation to determine whether there are reasonable grounds to believe that a violation of this Article 1 has occurred, or to promptly hold a public hearing to determine whether a violation of this Article 1 has occurred.
- (b) If the Commission decides to refer the matter to the Executive Director for investigation:
  - (1) The Commission shall promptly issue a Notice of Investigation and serve it on the respondent(s), setting forth the name and address of the respondent(s), the alleged facts surrounding the alleged commission of a violation of this Article 1 and the date the violation was allegedly committed and the class of persons or the name and address of any person who was the subject or victim of the alleged violation, if known.
  - (2) Upon referral of the matter to the Executive Director, the procedures set forth in Sections 11-1-13 through

11-1-14 shall be applicable to any hearing conducted with respect to any proceeding initiated by the Commission.

- (c) If the Commission determines to promptly hold a public hearing, the procedures set forth in Section 11-1-13 through 11-1-14 shall be applicable to any hearing conducted with respect to any proceeding initiated by the Commission to enforce this Article 1.

**Section 11-1-17. Enforcement of this Chapter by County agencies.**

- (a) *Public contractors:* Upon publication or receipt of the findings and recommendations of the Commission declaring the respondent to be in violation of this Chapter, the Purchasing Agent of Fairfax County may deem the respondent ineligible for award of a public contract until the Commission is satisfied that the respondent will comply with the recommendations of the Commission and the provisions of this Chapter.
- (b) *Labor organizations:* Upon publication or receipt of a copy of the findings and recommendations of the Commission declaring the respondent to be in violation of this Chapter, the purchasing agent of Fairfax County may deem the respondent ineligible to negotiate with the County until the Commission is satisfied that the respondent will comply with the Recommendations of the Commission and the provisions of this Chapter.
- (c) *County financial assistance:* Upon publication or receipt of a copy of the findings and recommendations of the Commission declaring the respondent to be in violation of this Chapter, the County of Fairfax may take appropriate action to terminate or refuse to grant or continue any public financial assistance to a program or activity of respondent until the Commission is satisfied that the respondent will comply with the recommendation of the Commission and the provisions of this Chapter.
- (d) Any respondent adversely affected by the provisions of this Section shall retain all rights of appeal provided for by the rules, regulations or laws of the County of Fairfax.

**Section 11-1-18. Inspections, records and notices.**

- (a) Every person subject to this Chapter shall post such notices, make and keep such records relevant to the

determination of whether discriminatory acts have been or are being committed, preserve such records for such periods, and make such reports therefrom as the Commission shall prescribe in order to assure the enforcement of this Chapter.

- (b) The Commission or any designated representative of the Commission may request access at any reasonable time to premises, records and documents relevant to a complaint or notice of investigations and may request the opportunity to examine, photograph and copy evidence upon presenting written authorization of the Chairperson of the Commission or the Executive Director duly executed by the Commission in accordance with its rules or procedures.
- (c) Any employment, education, real estate transaction, loan or credit, or public accommodation record made or application taken in the normal course of business by any person subject to this Chapter shall be preserved by the person or transferee thereof for a period of one (1) year from the date of the making of the record. When a complaint of notice of investigation has been filed against a person under this Chapter, the respondent shall preserve all records relevant to the allegations until final disposition of the complaint or notice of investigation.

#### **Section 11-1-19. Savings provisions and non-abatement of matters.**

- (a) The provisions of this Chapter, so far as they are the same as those of Chapters repealed by this Chapter, are intended as a continuation of such Chapters and not as new enactments.
- (b) The provisions of this Chapter, including any amendments hereto, shall take effect immediately upon their enactment and shall apply to all matters pending before the Commission on the date of their enactment and to all matters arising before the Commission thereafter.
- (c) Nothing contained in this Chapter shall be construed to conflict with any applicable state or federal law, rule or regulation; and insofar as this Chapter does so conflict, it shall be superseded thereby.

#### **Section 11-1-20. Non-exclusive remedy.**

Any person who is aggrieved by any act prohibited herein may bring an appropriate action in a court of competent jurisdiction to seek damages, redress of injury, or injunctive relief arising



out of any act prohibited herein as provided for by any applicable law. Nothing herein shall prevent any person from exercising any right or seeking any remedy to which he or she might otherwise be entitled, nor shall any person be required to pursue any remedy set forth herein as a condition of seeking relief from any court or other agency, except as is otherwise provided by applicable state or federal laws.

#### **Section 11-1-21. Notices; service.**

All notices required under the provisions of this Chapter shall be served either in person or by mailing to the last-known address appearing in the Commission's records. Counsel of record shall be entitled to a copy of any notices served upon his or her client which shall be mailed to him or her at his or her last-known address as it appears in the records of the Commission.

#### **Section 11-1-22. Time limitations.**

- (a) A complaint filed under the provisions of this Chapter shall be dismissed by the Executive Director if the complainant knew or should have known that the alleged violation of this Chapter ceased more than one (1) year prior to the date of filing of the complaint.
- (b) The Commission shall make final administrative disposition of a complaint within one year of the date of receipt of a complaint, unless it is impracticable to do so. With respect to complaints filed pursuant to Article 2, if the Commission is unable to make a final disposition within 100 days after receipt of the complaint, the parties shall be notified in writing of the reasons for not doing so.

#### **Section 11-1-23. Severability.**

The provisions of this Chapter are severable; and if any provision, sentence, clause, section or part thereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Chapter, or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Chapter would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included therein, and if the person or

circumstances to which the Chapter or any part thereof is inapplicable had been specifically exempted therefrom.

## **ARTICLE 2. FAIRFAX COUNTY FAIR HOUSING ACT**

### **Section 11-2-1. Declaration of policy.**

- (a) This Article shall be known and referred to as the Fairfax County Fair Housing Act.
- (b) It is the policy of the County of Fairfax to provide for fair housing throughout the County, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness, familial status, or handicap, and to that end to prohibit discriminatory practices with respect to residential housing by any person or group of persons, in order that the peace, health, safety, prosperity, and general welfare of all the inhabitants of the County may be protected and insured. This law shall be deemed an exercise of the police power of the County of Fairfax for the protection of the people of the County.

### **Section 11-2-2. Definitions.**

For the purposes of this Article, unless the context clearly indicates otherwise:

*Aggrieved person* means any person who (i) claims to have been injured by a discriminatory housing practice or (ii) believes that such person will be injured by a discriminatory housing practice that is about to occur.

*Complainant* means a person, including the Human Rights Commission, who files a complaint under Section 11-2-10.

*Conciliation* means the attempted resolution of issues raised by a complainant, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, their respective authorized representatives and the Human Rights Commission.

*Conciliation agreement* means a written agreement setting forth the resolution of the issues in conciliation.

*Discriminatory housing practices* means an act that is unlawful [under] Sections 11-2-4, 11-2-5, 11-2-6, or 11-2-7.

*Dwelling* means any building, structure, or portion thereof, which is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

*Elderliness* means an individual who has attained his or her fifty-fifth birthday.

*Familial status* means one (1) or more individuals who have not attained the age of eighteen (18) years being domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii) the designee of such parent or other person having custody with the written permission of such parent or other person. The term "familial status" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years. For purposes of this Section, "in the process of securing legal custody" means having filed an appropriate petition to obtain legal custody of such minor in a court of competent jurisdiction.

*Family* includes a single individual, whether male or female.

*Handicap* means, with respect to a person, (i) a physical or mental impairment which substantially limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii) being regarded as having such an impairment. The term does not include current, illegal use of, or addiction to a controlled substance as defined in Virginia or federal law. Neither the term "individual with handicap" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.

*Lending institution* includes any bank, savings institution, credit union, insurance company or mortgage lender.

*Person* means one or more individuals, whether male or female, corporations, partnerships, associations, labor organizations, fair housing organizations, civil rights organizations, organizations, governmental entities, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

*Prevailing Party* has the same meaning as such term has in Section 1988 of Title 42 of the United States Code.

*Respondent* means any person or other entity alleged to have violated the provisions of this Article, as stated in a complaint

filed under the provisions of this Chapter and any other person joined pursuant to the provisions of Section 11-2-10.

*Restrictive covenant* means any specification in any instrument affecting title to real property which purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color, religion, national origin, sex, elderliness, familial status, or handicap.

*To rent* means to lease, to sublease, to let, or otherwise to grant for consideration the right to occupy premises not owned by the occupant.

### **Section 11-2-3. Exemptions.**

- (a) Except as provided in Section 11-2-4(a)(3), this Article shall not apply to any single-family house sold or rented by an owner, provided that such private individual does not own more than three single-family houses at any one time. In the case of the sale of any single-family house by a private individual-owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to sale, the exemption granted shall apply only with respect to one such sale within any twenty-four-month period; provided that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be exempt from the application of this Article only if the house is sold or rented (i) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, salesperson, or of the facilities or the services of any person in the business of selling or renting dwellings, or of any employee, independent contractor, or agent of any broker, agent, salesperson, or person and (ii) without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of this Article. However, nothing herein shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer the title.
- (b) Except for Section 11-2-4(a)(3), this Article shall not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the

owner actually maintains and occupies one of such living quarters as his residence.

- (c) Nothing in this Article shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preferences to such persons, unless membership in such religion is restricted on account of race, color, national origin, sex, elderliness, familial status, or handicap. Nor shall anything in this Article apply to a private membership club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. Nor, where matters of personal privacy are involved, shall anything in this Article be construed to prohibit any private, state-owned or state-supported educational institution, hospital, nursing home, religious or correctional institution, from requiring that persons of both sexes not occupy any single-family residence or room or unit of dwellings or other buildings, or restrooms in such room or unit in dwellings or other buildings, which it owns or operates.
- (d) Nothing in this Article prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in federal law.
- (e) It shall not be unlawful under this Article for any owner to deny or limit the rental of housing to persons who pose a clear and present threat of substantial harm to others or to the dwelling itself.
- (f) A rental application may require disclosure by the applicant of any criminal convictions and the owner or managing agent may require as a condition of acceptance of the rental application that applicant consent in writing to a criminal record check to verify the disclosures made by applicant in the rental application. The owner or managing agent may collect from the applicant moneys to reimburse the owner or managing agent for the exact amount of the out-of-pocket costs for such criminal record checks. Nothing in this Article shall require an owner or managing agent to rent a

dwelling to an individual who, based on a prior record of criminal convictions involving harm to persons or property, would constitute a clear and present threat to the health or safety of other individuals.

- (g) Nothing in this Article limits the applicability of any reasonable local, state or federal restriction regarding the maximum number of occupants permitted to occupy a dwelling. Owners or managing agents of dwellings may develop and implement reasonable occupancy and safety standards based on factors such as the number and size of sleeping areas or bedrooms and overall size of a dwelling unit so long as the standards do not violate local, state or federal restrictions. Nothing in this Article prohibits the rental application or similar document from requiring information concerning the number, ages, sex, and familial relationship of the applicants and the dwelling's intended occupants.

#### **Section 11-2-4. Unlawful discriminatory housing practices.**

- (a) It shall be an unlawful discriminatory housing practice for any person:
  - (1) To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, national origin, sex, elderliness, or familial status;
  - (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in the connection therewith to any person because of race, color, religion, national origin, sex, elderliness, or familial status;
  - (3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation or discrimination based on race, color, religion, national origin, sex, elderliness, familial status, or handicap. The use of words or symbols associated with a particular religion, national origin, sex, or race shall be prima facie evidence of an illegal preference under this Chapter which shall not be overcome by a general disclaimer. However, reference alone to places of worship including, but not

limited to, churches, synagogues, temples, or mosques in any such notice, statement or advertisement shall not be prima facie evidence of an illegal preference;

- (4) To represent to any person because of race, color, religion, national origin, sex, elderliness, familial status, or handicap that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;
- (5) To deny any person access to membership in or participation in any multiple listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership, or participation because of race, color, religion, national origin, sex, elderliness, familial status, or handicap;
- (6) To include in any transfer, sale, rental, or lease of housing, any restrictive covenant that discriminates because of race, color, religion, national origin, sex, elderliness, familial status, or handicap or for any person to honor or exercise, or attempt to honor or exercise any such discriminatory covenant pertaining to housing;
- (7) To induce or attempt to induce to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, sex, elderliness, familial status, or handicap;
- (8) To refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise discriminate or make unavailable or deny a dwelling because of a handicap of (i) the buyer or renter, (ii) a person residing in or intending to reside in that dwelling after it is so sold, rented or made available, or (iii) any person associated with the buyer or renter;
- (9) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of a handicap of (i) that person, (ii) a person residing in or intending to reside in that dwelling after it was so sold, rented or made available, or (iii) any person associated with that buyer or renter.

- (b) For the purposes of this Section, discrimination includes:
- (i) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by any person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make reasonable accommodations in rules, practices, policies, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or (iii) in connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in such a manner that:
- (1) The public use and common use areas of the dwellings are readily accessible to and usable by handicapped persons;
  - (2) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
  - (3) All premises within covered multi-family dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. As used in this subdivision the term "covered multi-family dwellings" means buildings consisting of four (4) or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.
- (c) Compliance with the appropriate requirements of the American National Standards for Building and Facilities (commonly cited as "ANSI A117.1") or with any other standards adopted as part of regulations promulgated by HUD providing accessibility and usability for physically handicapped people shall be deemed to satisfy the requirements Section 11-2-4(b)(3).



- (d) Nothing in this Chapter shall be construed to invalidate or limit any Virginia law or regulation which requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this Chapter.

**Section 11-2-5. Discrimination in residential real estate-related transactions; unlawful practices by lenders, insurers, appraisers, etc.; deposit of state funds in such institutions.**

- (a) It shall be unlawful for any person or other entity, including any lending institution, whose business includes engaging in residential real estate-related transactions, to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, or in the manner of providing such a transaction, because of race, color, religion, national origin, sex, elderliness, familial status, or handicap. It shall not be unlawful, however, for any person or other entity whose business includes engaging in residential real estate transactions to require any applicant to qualify financially for the loan or loans for which such person is making application.
- (b) As used in this Section, the term "residential real estate-related transaction" means any of the following:
  - (1) The making or purchasing of loans or providing other financial assistance (i) for purchasing, constructing, improving, repairing, or maintaining a dwelling or (ii) secured by residential real estate; or
  - (2) The selling, brokering, insuring or appraising of residential real property. However, nothing in this Article shall prohibit a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, elderliness, familial status, or handicap.

**Section 11-2-6. Interference with enjoyment of rights of others under this Article.**

It shall be an unlawful discriminatory housing practice for any person to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on the account of his having

aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Article.

**Section 11-2-7. Certain restrictive covenants void; instruments containing such covenants.**

- (a) Any restrictive covenant and any related reversionary interest, purporting to restrict occupancy or ownership of property on the basis of race, color, religion, national origin, sex, elderliness, familial status, or handicap, whether heretofore or hereafter included in an instrument affecting the title to real or leasehold property, are declared to be void and contrary to the public policy of this County.
- (b) Any person who is asked to accept a document affecting title to real or leasehold property may decline to accept the same if it includes such a covenant or reversionary interest until the covenant or reversionary interest has been removed from the document. Refusal to accept delivery of an instrument for this reason shall not be deemed a breach of a contract to purchase, lease, mortgage, or otherwise deal with such property.
- (c) No person shall solicit or accept compensation of any kind for the release or removal of any covenant or reversionary interest described in subsection (a). Any person violating this subsection shall be liable to any person injured thereby in an amount equal to the greater of three (3) times the compensation solicited or received, or five hundred dollars (\$500.00), plus reasonable attorneys' fees and costs incurred.
- (d) A family care home, foster home, or group home in which physically handicapped, mentally ill, mentally retarded, or developmentally disabled persons reside, with one (1) or more resident counselors or other staff persons, shall be considered for all purposes residential occupancy by a single-family when construing any restrictive covenant which purports to restrict occupancy or ownership of real or leasehold property to members of a single-family or to residential use or structure.

**Section 11-2-8. Familial status protection not applicable to housing for older persons.**

- (a) Nothing in this Article regarding unlawful discrimination because of familial status shall apply to housing for older

persons. As used in this Section, "housing for older persons" means housing: (i) provided under any federal, state, or local program that is lawfully determined to be specifically designed and operated to assist elderly persons, as defined in the federal, state or local program; or (ii) intended for, and solely occupied by, persons sixty-two (62) years of age or older; or (iii) intended for, and solely occupied by at least one person fifty-five (55) years of age or older per unit. The following criteria shall be met in determining whether housing qualifies as housing for older persons under subdivision (iii) of this Section:

- (1) That at least eighty (80) percent of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and
  - (2) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.
- (b) Housing shall not fail to meet the requirements for housing for older persons by reason of:
- (1) Persons residing in such housing as of September 13, 1988, who do not meet the age requirements of subdivisions (ii) and (iii) of subsection (a) of this Section, provided that new occupants of such housing meet the age requirements of those subdivisions; or
  - (2) Unoccupied units, provided that such units are reserved for occupancy by persons who meet the provisions of subdivisions (ii) and (iii) of subsection (a) of this Section.

#### **Section 11-2-9. Powers of the Human Rights Commission.**

The Human Rights Commission has the power for the purposes of this Article to initiate and receive complaints, conduct investigations of any violation of this Article, attempt resolution of complaints by conference and conciliation, and, upon failure of such efforts, issue a charge and refer it to the County Attorney for action.

#### **Section 11-2-10. Procedures for receipt or initiation of complaint under Article 2 of this Chapter; notice to parties; filing of answer.**

- (a) A complaint under this Article 2 shall be filed with the Commission in writing within one (1) year after the alleged discriminatory housing practice occurred or terminated.
- (b) Any person not named in such a complaint and who is identified as a respondent in the course of the investigation may be joined as an additional or substitute respondent upon written notice to such person by the Executive Director explaining the basis for the Executive Director's belief that such person is properly joined as a respondent.
- (c) Any respondent may file an answer to such a complaint not later than 10 days after receipt of the notice described in Section 11-2-10(d) below. Complaints and answers must be made in writing, under oath or affirmation, and in such form as the Executive Director requires. Complaints and answers may be reasonably and fairly amended at any time.
- (d) Upon the filing of a complaint under this Article 2 or initiation of such a complaint by the Executive Director or its designee, the Commission shall provide written notice to the parties as follows:
  - (1) To the aggrieved person acknowledging the filing and advising such person of the time limits and choice of forums under this Article; and
  - (2) To the respondent, not later than ten (10) days after such filing or the identification of an additional respondent under subsection (b), identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this Article 2 with a copy of the original complaint and copies of any supporting documentation referenced in the complaint.

**Section 11-2-11. Procedures for investigation.**

- (a) The Executive Director shall commence proceedings with respect to a complaint filed under this Article 2 within thirty (30) days after receipt of the complaint, and shall complete the investigation within one hundred (100) days thereof unless it is impracticable to do so. If the Commission is unable to complete the investigation within one hundred (100) days after the receipt of the complaint, the aggrieved person and the respondent shall be notified in writing of the reasons for not doing so.

- (b) When conducting an investigation of a complaint filed under this Article, the Executive Director shall have the right to interview any person who may have any information which may further its investigation and to request production of any records or documents for inspection and copying in the possession of any person which may further the investigation. Such persons shall be interviewed under oath. The Commission or its designated subordinates shall have the power to issue and serve a subpoena to any such person to appear and testify and to produce any such records or documents for inspection and copying. Said subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served as part of a civil action in the Commonwealth of Virginia. In case of refusal or neglect to obey a subpoena, the Commission may petition for its enforcement in the Circuit Court for the County of Fairfax. The Circuit Court of Fairfax County will be requested to give these cases priority on the court docket.
- (c) At the end of each investigation under this Section, the Executive Director shall prepare a final investigative report containing:
  - (1) The names and dates of contacts with witnesses;
  - (2) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
  - (3) A summary description of other pertinent records;
  - (4) A summary of witness statements; and
  - (5) Answers to interrogatories.

A final report under this subsection may be amended if additional evidence is later discovered.

- (d) The Executive Director shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Commission's investigation, information derived from an investigation and any final investigative report relating to that investigation.

#### **Section 11-2-12. Reasonable cause determination and effect.**

The Commission shall, within one hundred (100) days after the filing of a complaint under this Article 2, determine, based on the facts and after consultation with the Office of the County

Attorney, whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so or unless the Commission has approved a conciliation agreement with respect to the complaint. If the Commission is unable to determine whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur within one hundred (100) days after receipt of the complaint, the aggrieved person and the respondent shall be notified in writing of the reasons therefor.

**Section 11-2-13. No reasonable cause determination and effect.**

If the Commission determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Commission shall promptly dismiss the complaint notifying the parties within thirty (30) days of such determination. The Commission shall make public disclosure of each dismissal.

**Section 11-2-14. Conciliation.**

During the period beginning with the filing of such complaint under this Article 2 and ending with the filing of a charge or a dismissal by the Executive Director, the Commission shall, to the extent feasible, engage in conciliation with respect to such complaint.

- (1) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent, the complainant, and the Commission, and shall be subject to approval by the Commission.
- (2) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.
- (3) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Commission determines that disclosure is not required to further the purposes of this Chapter.
- (4) Whenever the Commission has reasonable cause to believe that a respondent has breached a conciliation agreement, the Commission may refer the matter to the County Attorney with a recommendation that a civil

action be filed under Section 11-2-18 for the enforcement of such agreement.

**Section 11-2-15. Issuance of a charge.**

Upon failure to resolve a complaint under this Article 2 by conciliation and after consultation with the Office of the County Attorney, the Commission shall issue a charge on behalf of the Commission and the aggrieved person or persons and shall immediately refer the charge to the County Attorney, who shall proceed with the charge as directed by Section 11-2-17. The Commission may not issue a charge under this Section regarding an alleged discriminatory housing practice after the beginning of a trial of a civil action commenced by the aggrieved party under an Act of Congress or a state law seeking relief with respect to that discriminatory housing practice.

(1) Such charge:

(A) Shall consist of a short and plain statement of the facts upon which the Commission has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(B) Shall be based on the final investigative report; and

(C) Need not be limited to the acts or grounds alleged in the complaint filed under Section 11-2-10.

(2) Not later than 10 days after the Commission issues a charge under this Section, the Executive Director shall cause a copy thereof to be served on each respondent named in such charge and on each aggrieved person on whose behalf the complaint was filed.

**Section 11-2-16. Prompt judicial action.**

If the Commission concludes at any time following the filing of a complaint and after consultation with the Office of the County Attorney, that prompt judicial action is necessary to carry out the purposes of this Chapter, the Commission may authorize a civil action by the County Attorney for appropriate temporary or preliminary relief. Upon receipt of such authorization, the County Attorney shall promptly commence and maintain such action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in

accordance with the Virginia Rules of Civil Procedure. The commencement of a civil action under this Section shall not affect the initiation or continuation of administrative proceedings by the Commission under Section 11-2-9.

**Section 11-2-17. Civil action by County Attorney upon referral of charge by the Human Rights Commission.**

- (a) Not later than thirty (30) days after a charge is referred by the Commission to the County Attorney under Section 11-2-15, the County Attorney, at County expense, shall commence and maintain a civil action seeking relief on behalf of the Commission and the complainant in the circuit court for the city, county, or town in which the unlawful discriminatory housing practice has occurred or is about to occur.
- (b) Any aggrieved person with respect to the issues to be determined in a civil action pursuant to subsection (a) may intervene as of right.
- (c) In a civil action under this Section, if the court or jury finds that a discriminatory housing practice has occurred or is about to occur, the court or jury may grant, as relief, any relief which a court could grant with respect to such discriminatory housing practice in a civil action under Section 11-2-19. Any relief so granted that would accrue to an aggrieved person under Section 11-2-19 shall also accrue to the aggrieved person in a civil action under this Section. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court in the course of the action brought under this Section.
- (d) In any court proceeding arising under this Section, the court, in its discretion, may allow the prevailing party reasonable attorney's fees and costs.

**Section 11-2-18. Civil action by County Attorney; matters involving the legality of any local zoning or other land use ordinance; pattern or practice cases; or referral of conciliation agreement for enforcement.**

- (a) Whenever the County Attorney has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this Article, or that any group of



persons has been denied any of the rights granted by this Article and such denial raises an issue of general public importance, the County Attorney may commence a civil action in the appropriate circuit court for appropriate relief.

- (b) In the event of a breach of a conciliation agreement by a respondent, the Commission may authorize a civil action by the County Attorney. The County Attorney may commence a civil action in any appropriate circuit court for appropriate relief. A civil action under this subsection shall be commenced no later than the expiration of ninety days after the referral of such alleged breach.
- (c) The County Attorney, on behalf of the Commission, or other party at whose request a subpoena is issued, under this Article, may enforce such subpoena in appropriate proceedings in the appropriate circuit court.
- (d) In a civil action under subsections (a) and (b), the court may:
  - (1) Award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this Article as is necessary to assure the full enjoyment of the rights granted by this Article.
  - (2) Assess a civil penalty against the respondent (i) in an amount not exceeding fifty thousand dollars (\$50,000.00) for a first violation; and (ii) in an amount not exceeding one hundred thousand dollars (\$100,000.00) for any subsequent violation. The court or jury may award such other relief to the aggrieved person, as the court deems appropriate, including compensatory damages, and punitive damages without limitation otherwise imposed by state law.
- (e) Upon timely application, any person may intervene in a civil action commenced by the County Attorney under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a party to a conciliation agreement. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under Section 11-2-19.

**Section 11-2-19. Civil action; enforcement by private parties.**

- (a) An aggrieved person may commence a civil action in an appropriate United States district court or state court not later than two (2) years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this Article, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.
- (b) An aggrieved person may commence a civil action under Section 11-2-19(a) no later than one hundred eighty (180) days after the conclusion of the administrative process with respect to a complaint or charge, or not later than two (2) years after the occurrence or the termination of an alleged discriminatory housing practice, whichever is later. This subsection shall not apply to actions arising from a breach of a conciliation agreement. An aggrieved person may commence a civil action under this Section whether or not a complaint has been filed under Section 11-2-10 and without regard to the status of any such complaint. If the Commission or a federal agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this Section by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.
- (c) In a civil action under subsection (a), if the court or jury finds that a discriminatory housing practice has occurred or is about to occur, the court or jury may award to the plaintiff, as the prevailing party, compensatory and punitive damages, without limitation otherwise imposed by state law, and the court may award reasonable attorney's fees and costs, and subject to subsection (d), may grant as relief, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or order such affirmative action as may be appropriate.
- (d) Relief granted under subsection (c) shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving bona fide purchasers, encumbrancer or tenant, without actual notice of the filing of a complaint with the Commission or civil action under this Article.
- (e) Upon timely application, the County Attorney may intervene in such civil action, if the County Attorney certifies that the case is of general public importance. Upon intervention,

the County Attorney may obtain such relief as would be available to the private party under subsection (c).

**Section 11-2-20. Witness fees.**

Witnesses summoned by a subpoena under this Chapter shall be entitled to the same witness and mileage fees as witnesses in proceedings in the courts of the Commonwealth. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Commission.

**Section 11-2-21. Promulgating regulations.**

The Commission shall perform all acts necessary and proper to carry out the provisions of this Article and may promulgate and amend necessary regulations.

**Section 11-2-22. Application of Article.**

If any provision of this Article or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect the other provisions or applications of this Article which can be given effect without the invalid provisions or application, and to this end the provisions of this Article are severable.

**Section 11-2-23. Construction of law.**

Nothing in this Article shall abridge the federal Fair Housing Act of 1968 (42 U.S.C. § 3601 et seq.) as amended or the Virginia Fair Housing Act (Va. Code Ann. § 36-96.1 et seq.) (Michie 1996) as amended.